

# SENATE BILL 178

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CF HB 617

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By: **Senators Jacobs and Montgomery**

Introduced and read first time: January 20, 2012

Assigned to: Education, Health, and Environmental Affairs

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Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: February 29, 2012

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Education – Informal Kinship Care – ~~Documentation Supporting Affidavit~~**  
3 **~~Repeal~~ Enrollment Before Submission of Documentation**

4 FOR the purpose of ~~repealing the requirement that certain supporting documentation~~  
5 ~~accompany~~ authorizing certain county superintendents of schools to require  
6 that a certain affidavit verifying to a certain county superintendant of schools  
7 that a child is living in an informal kinship care arrangement for certain school  
8 attendance purposes be accompanied by certain supporting documentation only  
9 after allowing a certain child to enroll in a certain public school under certain  
10 circumstances; ~~repealing a requirement that certain instructions explain the~~  
11 ~~necessity of and encourage the submission of certain supporting documentation~~  
12 specifying that if certain documentation is required it must be consistent with  
13 certain policies and statutes; and generally relating to ~~the repeal of~~  
14 ~~requirements for requiring enrollment before submission of documentation~~  
15 supporting an affidavit of informal kinship care for educational purposes.

16 BY repealing and reenacting, with amendments,  
17 Article – Education  
18 Section 7–101  
19 Annotated Code of Maryland  
20 (2008 Replacement Volume and 2011 Supplement)

21 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
22 MARYLAND, That the Laws of Maryland read as follows:

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1

**Article – Education**

2 7–101.

3 (a) All individuals who are 5 years old or older and under 21 shall be  
4 admitted free of charge to the public schools of this State.

5 (b) (1) Except as provided in § 7–301 of this title and in paragraph (2) of  
6 this subsection, each child shall attend a public school in the county where the child is  
7 domiciled with the child’s parent, guardian, or relative providing informal kinship  
8 care, as defined in subsection (c) of this section.

9 (2) Upon request and in accordance with a county board’s policies  
10 concerning residency, a county superintendent may allow a child to attend school in  
11 the county even if the child is not domiciled in that county with the child’s parent or  
12 guardian.

13 (3) If a child fraudulently attends a public school in a county where  
14 the child is not domiciled with the child’s parent or guardian, the child’s parent or  
15 guardian shall be subject to a penalty payable to the county for the pro rata share of  
16 tuition for the time the child fraudulently attends a public school in the county.

17 (4) Nothing in this section alters the requirements for out-of-county  
18 placements contained in § 4–122 and Title 8, Subtitles 3 and 4 of this article or in any  
19 other State or federal law.

20 (c) (1) (i) In this subsection the following words have the meanings  
21 indicated.

22 (ii) “Informal kinship care” means a living arrangement in  
23 which a relative of a child, who is not in the care, custody, or guardianship of the local  
24 department of social services, provides for the care and custody of the child due to a  
25 serious family hardship.

26 (iii) “Relative” means an adult related to the child by blood or  
27 marriage within the fifth degree of consanguinity.

28 (iv) “Serious family hardship” means:

29 1. Death of a parent or legal guardian of the child;

30 2. Serious illness of a parent or legal guardian of the  
31 child;

32 3. Drug addiction of a parent or legal guardian of the  
33 child;

- 1 child;
- 2
- 3 4. Incarceration of a parent or legal guardian of the
- 4 child; or
- 5 5. Abandonment by a parent or legal guardian of the
- 6 6. Assignment of a parent or legal guardian of a child to
- 7 active military duty.

8 (2) ~~[(i)]~~ A county superintendent shall allow a child who is a resident of this State to attend a public school in:

9 ~~[(1)]~~ ~~[(i)]~~ A county other than the county where the child is domiciled with the child's parent or legal guardian if the child lives with a relative providing informal kinship care in the county and the relative verifies the informal kinship care relationship through a sworn affidavit; or

10 ~~[(2)]~~ ~~[(ii)]~~ A school attendance area other than the school in the school attendance area where the child is domiciled with the child's parent or legal guardian if the child lives with a relative providing informal kinship care in the school attendance area and the relative verifies the informal kinship care relationship through a sworn affidavit.

11 ~~[(ii)]~~ 1. ~~The~~ AFTER ALLOWING A CHILD TO ENROLL UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH, SUBSEQUENTLY A COUNTY SUPERINTENDENT MAY REQUIRE THAT THE affidavit ~~shall~~ be accompanied by supporting documentation of one or more serious family hardships and, where possible, the telephone number and address of any authority who is legally authorized to reveal information which can verify the assertions in the affidavit.

12 2. ~~The~~ IF supporting documentation IS required under subsubparagraph 1 of this subparagraph, THE DOCUMENTATION shall be consistent with local, State, and federal privacy and confidentiality policies and statutes.~~]~~

13 (3) The affidavit shall include:

- 14 (i) The name and date of birth of the child;
- 15 (ii) The name and address of the child's parent or legal guardian;
- 16 (iii) The name and address of the relative providing informal kinship care;
- 17 (iv) The date the relative assumed informal kinship care;

1 (v) The nature of the serious family hardship and why it  
2 resulted in informal kinship care;

3 (vi) The kinship relation to the child of the relative providing  
4 informal kinship care;

5 (vii) The name and address of the school the child previously  
6 attended;

7 (viii) Notice that the county superintendent may verify the facts  
8 given by the relative providing informal kinship care in the affidavit and conduct an  
9 audit of the case after the child has been enrolled in the county public school system;

10 (ix) Notice that if fraud or misrepresentation is discovered  
11 during an audit, the county superintendent shall remove the child from the public  
12 school or county public school system roll; and

13 (x) Notice that any person who willfully makes a material  
14 misrepresentation in the affidavit shall be subject to a penalty payable to the county  
15 for three times the pro rata share of tuition for the time the child fraudulently attends  
16 a public school in the county.

17 (4) The affidavit shall be in the following form:

18 (i) I, the undersigned, am over eighteen (18) years of age and  
19 competent to testify to the facts and matters set forth herein.

20 (ii) \_\_\_\_\_ (name of child), whose date of birth is  
21 \_\_\_\_\_, is living with me because of the following serious family hardship:  
22 (check each that is applicable)

- 23 \_\_\_\_\_ death of father/mother/legal guardian
- 24 \_\_\_\_\_ serious illness of father/mother/legal guardian
- 25 \_\_\_\_\_ drug addiction of father/mother/legal guardian
- 26 \_\_\_\_\_ incarceration of father/mother/legal guardian
- 27 \_\_\_\_\_ abandonment by father/mother/legal guardian
- 28 \_\_\_\_\_ assignment of a parent or legal guardian of a child to active military duty

29 (iii) The name and last known address of the child's parent(s) or  
30 legal guardian is:

31 \_\_\_\_\_

32 \_\_\_\_\_

33 \_\_\_\_\_

34 (iv) My kinship relation to the child is \_\_\_\_\_

1 (v) My address is:

2 \_\_\_\_\_  
3 Street Apt. No.

4 \_\_\_\_\_  
5 City State Zip Code

6 (vi) I assumed informal kinship care of this child for 24 hours a  
7 day and 7 days a week on \_\_\_\_\_(day/month/year).

8 (vii) The name and address of the last school that the child  
9 attended is:

10 \_\_\_\_\_  
11 \_\_\_\_\_

12 (viii) The county superintendent may verify the facts contained in  
13 the foregoing affidavit and conduct an audit on a case-by-case basis after the child  
14 has been enrolled in the county public school system. If the county superintendent  
15 discovers fraud or misrepresentation, the child shall be removed from the public school  
16 or county public school system roll.

17 (ix) I solemnly affirm under the penalties of perjury that the  
18 contents of the foregoing are true to the best of my knowledge, information, and belief.

19 \_\_\_\_\_  
20 Signature of affiant

21 \_\_\_\_\_  
22 (Day/month/year)

23 (x) Any person who willfully makes a material  
24 misrepresentation in this affidavit shall be subject to a penalty payable to the county  
25 for three times the pro rata share of tuition for the time the child fraudulently attends  
26 a public school in the county.

27 (5) (i) Instructions that explain the necessity for ~~both~~ an affidavit  
28 ~~and, WHEN APPROPRIATE, THE~~ supporting documentation~~]~~ of the serious family  
29 hardship resulting in informal kinship care shall:

30 1. Be attached to affidavit forms that comply with  
31 paragraph (4) of this subsection; and

32 2. Include language encouraging the relative providing  
33 informal kinship care to submit the affidavit ~~and, WHEN APPROPRIATE, THE~~  
34 supporting documentation~~]~~ prior to September 30 of each year.

1                   (ii) The affidavit forms, with attached instructions, shall be  
2 made available free of charge at the offices of each county board of education, each  
3 local department of social services, and each local area agency on aging.

4                   (6) If a change occurs in the care or in the serious family hardship of  
5 the child, the relative providing informal kinship care for the child shall notify the  
6 local school system in writing within 30 days after the change occurs.

7                   (7) (i) An informal kinship care affidavit may be filed during a  
8 school year.

9                   (ii) The relative providing informal kinship care shall file an  
10 affidavit annually at least 2 weeks prior to the beginning of the school year for each  
11 year the child continues to live with the relative because of a serious family hardship.

12                   (8) Unless the court appoints a guardian for the child or awards  
13 custody of the child to someone other than the relative providing informal kinship  
14 care, the relative providing informal kinship care shall make the full range of  
15 educational decisions for the child.

16                   (9) The relative providing informal kinship care shall make reasonable  
17 efforts to inform the parent or legal guardian of the child of the informal kinship care  
18 relationship.

19                   (10) The parent or legal guardian of a child in an informal kinship care  
20 relationship shall have final decision making authority regarding the educational  
21 needs of the child.

22                   (d) Section 4-122.1 of this article shall apply to the education funding of a  
23 child in an informal kinship care relationship if the fiscal impact of the requirements  
24 of subsections (b) and (c) of this section exceed 0.1% of a county board's total operating  
25 budget for a fiscal year.

26                   (e) (1) By the 2007-2008 school year, each county board shall provide  
27 full-day kindergarten programs for all kindergarten students in that county.

28                   (2) In the comprehensive master plan that is submitted under § 5-401  
29 of this article, a county board shall identify the strategies that will be used in that  
30 county to ensure that full-day kindergarten programs are provided to all kindergarten  
31 students in that county by the 2007-2008 school year.

32                   SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
33 July 1, 2012.